

2004 WL 5569844 (Mass.Super.) (Trial Pleading)
Superior Court of Massachusetts.
Middlesex County

Ralph L. JERAULD, Plaintiff,
v.
WALTHAM HOUSING AUTHORITY, and Walter McGuire, Defendants.

No. 04-807.
March 3, 2004.

Verified Complaint for Injunctive Relief and Money Damages

Respectfully submitted, Ralph L. Jerauld, by his attorney, [Paul L. Nevins](#), BBO # 369930, 47 Church Street, Wellesley, MA 02482, (781) 237-9018.

Parties

1. The plaintiff, Ralph L. Jerauld, is a Massachusetts resident who resides at 958 Trapelo Road, Waltham, MA 02452.
2. The defendant, Waltham Housing Authority, is an independent body politic established under the laws of the Commonwealth of Massachusetts.
3. The authority's principal office is located at 110 Pond Street, Waltham, Massachusetts.
4. The defendant, Walter McGuire, is the Executive Director of the Waltham Housing Authority.

Statement Of The Facts

5. The plaintiff is a 58 year old male.
6. He was born on XX/XX/1945.
7. The plaintiff has been employed by the Waltham Housing Authority since 1985.
8. The plaintiff currently holds the title of Director of Maintenance And Development.
9. In December of 1992, the plaintiff was diagnosed with small cell lung cancer.
10. The disease is currently in remission, but, within the past few years, the plaintiff has also been diagnosed with another incipient form of cancer in his other lung for which there is no known cure.
11. Also, In March of 1998, the plaintiff was also diagnosed with Myasthenia Gravis, a neurological disease of the autoimmune system that often mirrors Multiple Sclerosis.
12. The disease, which causes double vision or blurred vision. has been confined to the plaintiff's ocular area since its diagnosis.

13. The disease is somewhat controlled by medication.

14. Over the years, the plaintiff has repeatedly requested that the Executive Director of the Waltham Housing Authority, Walter McGuire, not smoke in his presence.

15. On at least two separate occasions, an inspector from the Waltham Board of Health requested that Mr. McGuire not smoke in in the building at 110 Pond Street where employees work and where Mr. McGuire met with Mr. Jerauld on a daily basis.

16. On December 30, 1997, the plaintiff wrote Walter McGuire a letter in which he requested, as a reasonable accommodation, that Walter McGuire not smoke in his presence.

17. The plaintiff also provided Mr. McGuire with a letter to that effect from his treating physician.

18. Subsequently, the plaintiff provided Mr. McGuire with other letters from his physicians, including one from an oncologist at the Dana-Farber Cancer Institute, which requested that, because of his previous lung cancer, he not be subjected to second-hand smoke.

19. In March 2002, a representative from HUD, Dwight Herbert, spoke to Mr. McGuire regrading the issue of smoking.

20. Mr. Herbert instructed Mr. McGuire, who is a chain-smoker, that, under no circumstances, was he to smoke in any of the buildings of the WHA, including his office, which are public buildings situated on publicly-owned property.

21. Despite the plaintiff's continued request for a reasonable accommodation, a spate of letters from his treating physicians, and Mr. Dwight's admonition, Mr. McGuire has continued to chain smoke in the plaintiff's presence.

22. Walter McGuire has also repeatedly stated that he doesn't care about the plaintiff's medical problems.

23. On many occasions since the plaintiff was diagnosed with Myasthenia Gravis, the plaintiff have explained to Walter McGuire and provided medical documentation about the adverse effects which stress has on his autoimmune disease.

24. Nevertheless, Walter McGuire has continued to subject the plaintiff to his uncontrolled emotional outbursts, in the presence of his co-workers, subordinates and **elderly** residents of the WHA, which has caused the plaintiff embarrassment, humiliation and stress.

25. On one occasion, the plaintiff was forced to seek medical attention and he was put on a medical leave by his physician.

26. Shortly after his return to work after that incident, Walter McGuire called the plaintiff into his office, and began to yell and swear.

27. He stated, "I am the Goddamn Director around here and I will yell at you any time I want and you will sit there and take it. Do you hear me?"

28. Mr. McGuire continued to yell at Mr. Jeruald and told him to "Keep your Goddamn mouth shut and you address me as Mr. McGuire. Do you understand?"

29. The plaintiff is in constant fear of Walter McGuire since his rages are often characterized by profanity, bullying, and threats of physical violence.

30. In addition, over the years, the plaintiff has complained, both verbally and in writing to Walter McGuire, about numerous incidents of racism and **elder abuse** exhibited by the Assistant Director, Lionel Plamondon and by the Maintenance Foreman, Kevin Crowley, toward' the authority's public housing residents and its employees.

31. Walter McGuire has ignored these complaints and repeatedly chastised the plaintiff for not focusing on his job.

32. As a consequence of the above treatment, the plaintiff filed administrative charge of disability discrimination and unlawful retaliation with the Massachusetts Commission Against Discrimination in July of 2002.

33. The charges were received by the Waltham Housing Authority sometime in October of 2002.

34. Since the receipt of those charges, Walter McGuire continued to smoke in his office, which forced the plaintiff to discuss work-related issues with him by standing at the threshold of his office.

35. In addition, Lionel Plamondon, the Assistant Director of the Waltham Housing Authority, has discussed the plaintiff's administrative charges with some of the staff who report to the plaintiff directly as well as other staff at the Waltham Housing Authority as well as other residents of the City of Waltham.

36. Mr. Plamondon also began to undermine the plaintiff's authority by assigning work to the plaintiff's staff without the plaintiff's knowledge.

37. Mr. Plamondon also began to intentionally ignore the plaintiff's presence and to walk away from him.

38. Whenever the plaintiff left his office for any length of time, Mr. Plamondon would go to the plaintiff's office and to speak to the plaintiff's staff.

39. Mr. Plamondon would then leave the plaintiff's office before his return which signalled to the plaintiff's staff that Mr. Jerauld was "persona non grata."

40. In addition, to the present, Walter McGuire has failed to provide the plaintiff with the opportunity to receive the training that would prepare him for further advancement at the Authority, such as training in the requirements and policies of the federal Section 8 Housing Assistance Program and budget preparation and policies.

41. On June 20, 2002, the plaintiff explained to Walter McGuire that he had another sore throat and that he had an appointment with his physician.

42. The plaintiff then spoke to Lionel Plamondon in his office to again complain about Walter McGuire's smoking.

43. Mr. Plamondon replied: "Ray, I understand your health concerns. but there is absolutely nothing I can do. You know Walter. He does whatever he wants to do, so you're just going to have to live with it."

44. On June 19, 2003, two Waltham Housing Board Members, at the behest of Walter McGuire, falsely accused the plaintiff of not performing his job.

45. The plaintiff was not allowed to defend himself at this meeting.

46. In addition, the plaintiff was not given any prior notice to this discussion.

47. The plaintiff was immediately stripped of virtually all of his responsibilities as the Maintenance Director and humiliated in the presence of a subordinate and a co-worker.

48. On June 30, 2003, Mr. McGuire sent a letter to the plaintiff in which he falsely accused him to failing to discharge his duties with respect to an inspection by a HUD representative, Dwight Herbert.

49. Mr. Jeruald was threatened with further disciplinary action before he was able to show that the accusations were spurious.

50. The plaintiff has now removed his administrative charges from the Massachusetts Commission Against Discrimination to pursue this civil action.

Count 1: Disability Discrimination

51. The facts alleged in the paragraphs 1-50 are realleged with the same force and effect and incorporated by reference herein.

52. The facts alleged state a cause of action under M.G.L. c. 151B, § §4.2 and 4.16 for unlawful discrimination on account of disability.

Count 2: Unlawful Retaliation

53. The facts alleged in the paragraphs 1-50 are realleged with the same force and effect and incorporated by reference herein.

54. M.G.L. c. 151B, §4.4A. That statute makes it a separate unlawful offense:

“For any person to coerce, intimidate or threaten or interfere with another person in the exercise or enjoyment of any right granted or protected by this chapter, or to coerce, threaten or interfere with such other person for having aided or encouraged any other person in the exercise or enjoyment of any such right granted or protected by this chapter.”

55. The facts alleged state a cause of action for violations of M.G.L. c. 151B, §4.4A for unlawful retaliation because Mr. Jeruald exercised statutory rights permitted and protected under M.G.L. c. 151B.

Prayers For Relief

WHEREFORE, the plaintiff prays that this Court advance this case in every way on the docket and grant a speedy trial and, after said trial, he prays and demands:

(1) Issue a permanent injunction which enjoins the defendants, their agents, servants or employees, for future acts of retaliation or harassment against the plaintiff pursuant to [M.G.L. c. 151B, §4](#).

(2) With respect to Count 1, award the plaintiff money damages including back pay, compensation for all other lost employment benefits and front pay, plus pre-judgment interest and post-judgment interest.

(3) With respect to Count 2, award the plaintiff exemplary damages.

(4) With respect to Counts 1 and 2 award the plaintiff his reasonable attorney's fees and costs as provided for under [M.G.L. c. 151B, § 9](#).

(5) Award the plaintiff such other and further relief as may be just and meet.

Jury Trial Demand

The plaintiff, Ralph L. Jeruald, hereby demands trial by jury on all issues herein to which he may be entitled to trial by jury, pursuant to the Massachusetts Declaration of Rights and the Seventh Amendment to the United States Constitution and [Massachusetts Rule of Civil Procedure 38](#), and requests an advisory jury on all factual issues material to claims not triable by right by a jury, pursuant to [Massachusetts Rule of Civil Procedure 39\(c\)](#).

Respectfully submitted

RALPH L. JERAULD

By his attorney

Paul L. Nevins

BBO # 369930

47 Church Street

Wellesley, MA 02482

(781) 237-9018

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